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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,079	08/21/2003	Erik John Hasenoehrl	9343	6936

27752 7590 11/28/2007  
THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.  
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CINCINNATI, OH 45224

EXAMINER
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AHMED, HASAN SYED

ART UNIT	PAPER NUMBER
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1615

MAIL DATE	DELIVERY MODE
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11/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/645,079	Applicant(s) HASENOEHRL ET AL.	
	Examiner Hasan S. Ahmed	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-25 is/are pending in the application.
- 4a) Of the above claim(s) 14-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/31/07</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 1615

### **DETAILED ACTION**

Receipt is acknowledged of Applicants': (a) request for continued examination; and (2) IDS, both were filed on 31 October 2007.

\* \* \* \* \*

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 31 October 2007 has been entered.

\* \* \* \* \*

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3-5, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slavtcheff, *et. al.* in view of Bries, *et. al.* (U.S. Patent No. 5,110,843).

Art Unit: 1615

Slavtcheff, *et. al.* disclose a layered effervescent article for cleansing body surfaces (see col. 2, lines 10-30).

The disclosed article is comprised of:

- the effervescent composition comprising solid alkaline and acidic materials of instant claim 1; and
- the liquid-permeable laminate comprising a first web (as defined in paragraph 0028 of the instant specification) layer and a second web layer with said effervescent composition present between the first and second layers (see col. 2, line 67 – col. 3, lines 9, 32 and 46-56; figure 2).

The disclosed article may further comprise:

- an anionic lathering surfactant (instant claim 3), such as an isethionate, a taurate or a sulfate (instant claim 5). See col. 4, line 65 – col. 5, line 8.
- an effervescing composition comprising:
  - 1-80% of an alkaline material such as, *inter alia*, azides (instant claim 10) and sodium bicarbonate (instant claim 11) (see col. 4, lines 20-25); and
  - 1-80% of an acidic material such as, *inter alia*, toluene sulfonic acid (instant claim 12) and citric acid (instant claim 13) (see col. 4, lines 29-53).

Slavtcheff, *et. al.* explain that combining the disclosed agents into one cleansing article is beneficial because it forms a convenient delivery package (see col. 1, lines 14-20).

Art Unit: 1615

The Slavtcheff, *et. al.* reference differs from the instant claims in that it does not teach a surfactant layer distributed over the first web layer (see instant claim 2).

Bries, *et. al.* teach a cleaning article comprising multiple layers (see col. 5, lines 23-56).

The disclosed article may contain a layer comprising a cleaner or detergent (see col. 5, lines 49-52).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to add a surfactant to the top layer of a multi-layer personal cleansing article. One of ordinary skill in the art at the time the invention was made would have been motivated to add surfactant to the cleansing article because it forms a convenient delivery package, as explained by Slavtcheff, *et. al.*

\*

2. Claims 6, 7, and 9 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Slavtcheff, *et. al.*

Slavtcheff, *et. al.* disclose a layered effervescent article for cleansing body surfaces (see above).

The Slavtcheff, *et. al.* reference differs from the instant case in that it does not disclose the bonding agents of instant claim 7.

However, the reference teaches that the layers of the disclosed article are heat fused (instant claim 6) at the outer perimeter (instant claim 9). See col. 3, lines 48-49.

Thus, burden shifts to Applicants to show an unexpected result with use of the bonding agents recited in instant claim 7.

\*

3. Claim 8 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Slavtcheff, *et. al.* in view of Bries, *et. al.*

Slavtcheff, *et. al.* disclose a layered effervescent article for cleansing body surfaces (see above).

The Slavtcheff, *et. al.* reference differs from the instant case in that it does not teach the third layer to the second layer of instant claim 8.

Bries, *et. al.* teach a cleaning article comprising multiple layers (see col. 5, lines 23-40).

Bries, *et. al.* explain that multiple layers are beneficial for "...support, reinforcement, strength, abrasiveness, etc." See col. 5, lines 49-52.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to add a third layer to the second layer of the claimed article. One of ordinary skill in the art at the time the invention was made would have been motivated to add the third layer to the cleansing article for, e.g., support, reinforcement, strength, and abrasiveness, as explained by Slavtcheff, *et. al.*

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### **Correspondence**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hasan S. Ahmed whose telephone number is 571-272-4792. The examiner can normally be reached on 9am - 5:30pm.

Art Unit: 1615

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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HUMERA N. SHEIKH  
PRIMARY EXAMINER